

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In The Matter of

Framework for
Broadband Internet Service

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GN Docket No. 10-127

COMMENTS OF INTERNET SOLVER, INC.

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EXECUTIVE SUMMARY

Internet Solver, Inc. (“Internet Solver”) files these comments to share its experiences as a provider of broadband services and to support the Federal Communications Commission’s proposed changes for the regulatory treatment of broadband services. As argued herein, Internet Solver believes that both broadband service providers and consumers would greatly benefit from a narrow, limited set of federal regulations and a federal venue where broadband signal interference issues can be adjudicated. While broadband subscribers benefit from the competition provided by the presence of multiple providers, it is difficult for smaller broadband providers, such as Internet Solver, to justify continued investment in broadband facilities whose value can be severely diminished through the actions of their competitors, without at least some regulatory protection and efficient, affordable options for dispute resolution.

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I. INTRODUCTION

On June 17, 2010, the Federal Communications Commission ("FCC" or "Commission") released a Notice of Inquiry ("NOI") seeking comment on its proposed legal framework for the future treatment of broadband service.¹ The Commission's actions come as a response to the United States Court of Appeals for the District of Columbia Circuit's decision in the *Comcast v. FCC* case, in which the Court rejected the Commission's attempt to extend its ancillary regulatory jurisdiction over broadband-based services.² As an alternative, FCC Chairman Julius Genachowski proposed a so-called "third way" which would separately classify the transmission component of broadband Internet access services as "telecommunications," when offered on a common carrier basis, subject to Title II, while the information component would be subject to a limited set of regulations pursuant to the Commission's ancillary jurisdiction under Title I.³

Internet Solver, Inc. ("Internet Solver") files these comments to share its experiences as a provider of broadband services and support the Commission's proposed changes for the regulatory treatment of broadband services. Internet Solver is a small Iowa-based provider of computer, communications, and Internet service and

¹ *Framework for Broadband Internet Service*, GN Docket No. 10-127, Notice of Inquiry (Jun. 17, 2010)("NOI").

² *Comcast Corp. v. FCC*, 600 F.3d 642 (D.C. Cir. 2010).

³ See NOI at ¶ 28.

support. Known for its outstanding customer service, Internet Solver has been voted the Best Telephone Equipment vendor and runner-up for Best Internet Service Provider by readers of the Des Moines Business Record.⁴ Among other services, Internet Solver's Internet service offerings include Digital Subscriber Line ("DSL") Internet access.

II. BACKGROUND

As noted in the National Broadband Plan ("Plan"), DSL Internet access remains a valuable component of the nation's broadband ecosystem. According to the Plan, ninety-six percent of all business locations have access to DSL service — the highest percentage of any cited service.⁵ The Plan also stresses the importance of DSL as a competitive broadband alternative and acknowledges the need to develop broadband policies that ensure an appropriate balance between services that rely on copper facilities, like DSL, and those that utilize fiber. Undoubtedly, broadband subscribers have benefited from the competition provided by the presence of multiple providers. The Plan notes that broadband service regardless of the medium (*i.e.*, DSL, cable or fiber) typically offers faster speeds when competing with other wireline service

⁴ Business Record Staff, *Best of Technology*, DES MOINES BUS. REC., Aug. 8, 2009, *available at* <http://businessrecord.com/main.asp?SectionID=4&SubSectionID=7&ArticleID=8609&TM=46032>. 57 (last visited Jul. 14, 2010).

⁵ FEDERAL COMMUNICATIONS COMMISSION, CONNECTING AMERICA: THE NATIONAL BROADBAND PLAN at 20.

offerings.⁶ Thus, available cable and fiber speeds are typically higher in areas in which cable and fiber must compete with DSL.

To provide customers with broadband service, DSL utilizes a digital signal transmitted over the unused frequency spectrum available on the existing copper infrastructure connecting local exchange carriers to their customers. Because numerous conditions exist that can impair the performance of copper wiring, the performance of DSL service often depends on loop length and loop condition. The most frequent cause of DSL signal degradation is a phenomenon known as “crosstalk.”⁷ Crosstalk occurs when two adjacent wires carry signals, and signals from one wire are able to enter the other wire as a result of electromagnetic radiation.⁸

Internet Solver and a large segment of its customer base are currently experiencing a severe crosstalk problem due to signal interference between Internet Solver’s DSL service offering and a co-located Qwest broadband service offering. Internet Solver’s situation provides a perfect example of the need for the type of regulatory framework laid out in both the Plan and Chairman Genachowski’s proposed “third way.” As explained below, due to the lack of adequate regulatory oversight at either the federal or state levels over the provision of broadband service and, in

⁶ *Id* at 38.

⁷ LILLIAN GOLENIIEWSKI, TELECOMMUNICATIONS ESSENTIALS 495 (2d ed. Addison-Wesley 2007).

⁸ *Id*.

particular, DSL service, Internet Solver has been unable to resolve its ongoing signal interference issues.

III. BROADBAND REGULATION IS NECESSARY TO PREVENT AND RESOLVE INTERFERENCE ISSUES

Both Internet Solver and Qwest have customers that are served from a DSL access multiplexer ("DSLAM")⁹ currently located in the same central office. For the most part, the companies' services do not interfere with one another because the signal gets attenuated/degraded at the same rate as it goes out to the customers. Essentially, the transmission strength stays roughly equal for both services and neither is able to degrade the other's service. However, Qwest is now positioning new remote DSLAMs for its unregulated fiber to the node ("FTTN") broadband service in many locations. The signal level of these remote DSLAMs is much stronger at further distances from the central office because they are located between the central office and the customer. This increased signal strength causes interference with service from the central office DSLAMs, both for Internet Solver (and for many of Qwest's retail customers). These affected customers experience slow speeds, interference, and dropped connections.

Internet Solver first became aware of these interference problems on or about February 26, 2009. Internet Solver first tried to work with Qwest by submitting a

⁹ "A DSLAM terminates and aggregates a large number of DSL subscriber lines, separating the voice and data traffic, before handing it off to the proper network, either the PSTN for traditional circuit-switched voice calls or a packet network for the data and multimedia traffic." *Id* at p. 494.

“repair order” to Qwest to clear interference with the first line on which it noticed the problem. However, Qwest did not seem to be sure of how to deal with such reports, because their FTTN service had not yet been widely distributed.

Each time that Internet Solver discovered such a problem, it would call Qwest’s competitive local exchange carrier (“CLEC”) repair center to open trouble tickets on its affected lines. On or about June 1, 2009, Internet Solver met with Qwest’s representatives at the location of the interfering DSLAM. With test equipment, Internet Solver was able to demonstrate a service speed of 5 to 7 megabits at the cross-connect location but only 1 to 2 megabits at the customers’ homes less than 3,000 feet away. On or about September 22, 2009, Qwest’s service manager informed Internet Solver that it had done what it could and that Qwest didn’t guarantee any particular speeds on the circuits. Despite Qwest’s limited attempts at assistance,¹⁰ the affected lines continue to experience interference which has resulted in the loss of significant speed and several customer lines remain unstable, thereby causing frustration and discontent among Internet Solver’s customer base.

Internet Solver has made significant investments in infrastructure and equipment in order to provide its competitive services to consumers. These investments have, in

¹⁰ Initially, Qwest would move lines to remove the interferences; however, more recently, Qwest’s only offered solution is to move Internet Solver to resold Qwest DSL or Qwest IP service, which is a much less cost-effective option for Internet Solver. See www.qwest.com/wholesale/.../DNLD_Svc_Intrfc_Wrkrnd_11_13_08.doc (last visited July 15, 2010)

turn, enabled Internet Solver to offer competitively-priced, high-quality services to consumers. When it acknowledges the problem (as opposed to simply closing repair tickets when Qwest's line tests do not indicate a problem), Qwest's proposed solution is to offers Internet Solver the option of moving its customers to Qwest's wholesale DSL or IP service. These wholesale options are not only significantly higher-priced than the unbundled network elements ("UNEs") Internet Solver currently purchases to provide its own facilities-based DSL services, but they also require Internet Solver to abandon its substantial infrastructure and equipment investments.

Internet Solver prides itself on providing outstanding customer service and a broader array of services than many larger Internet service providers ("ISPs") and communications service providers. Unlike its giant, multi-service, multi-division competitors, Internet Solver can provide one point of contact for all of the company's technology service and support needs, which is why many of its customers prefer it over larger, better-known providers. But Internet Solver's customers choose it not just for its suite of services and superior customer service, but for its broadband service coverage as well. Internet Solver has invested a tremendous amount of money and time into the facilities and equipment that its uses to provide broadband service. Internet Solver was the first ISP in its state to install remote DSL equipment and is the exclusive DSL provider in several rural areas. In fact, Internet Solver has the largest DSL coverage area in central Iowa. Thus, Qwest's interference with Internet Solver's service

has prevented many of Internet Solver's customers from receiving both a variety of services and range of DSL coverage that is simply not being offered by any other provider. So, even though its DSLAM signal interference has created problems for itself as well as Internet Solver, it should be noted that the impact on Internet Solver has been far greater. Moreover, unlike Qwest, which has the option of converting customers affected by the crosstalk degradation to its FTTN services, Internet Solver has no other options and, once it loses a customer due to dissatisfaction with broadband speeds, that customer is lost for good.

The FCC's reclassification of broadband service, including its underlying transmission component, as an information service instead of a telecommunications service, unfortunately, had the effect of removing incumbent local exchange carrier ("ILEC") obligations to allow third-party ISPs access to many of their broadband services and facilities. For example, Qwest has denied access to its new FTTN DSLAMs for third-party ISP's such as Internet Solver. Qwest allows access to its asynchronous transfer mode ("ATM") data network; however, Qwest has not invested in any new ATM DSLAMs for quite a few years.

Furthermore, Qwest has revised the status of its DSL service to a non-tariffed product leaving little recourse for independent ISPs with whom its DSL service interferes. For Internet Solver, the existing dispute resolution mechanisms under either federal or state law are ineffective and inadequate, because they effectively require

litigation. In litigation with the few, large facilities-based providers of broadband service, smaller providers such as Internet Solver and their customers lose. The resources of large providers such as Qwest allow them to drag out litigation to such extent that a company of Internet Solver's size would have difficulty achieving any sort of adequate resolution through the process. What is needed is a narrow, limited set of federal regulations establishing clear baseline requirements and standards for broadband services and a federal venue where interference issues can be adjudicated and resolved without the need for formal complaints and state arbitrations.

Now, such rules are lacking both at the federal and state level when it comes to broadband interference, mainly because there is not a sufficient body of experience and data and no singular agency which has taken a serious look at the issue. Internet Solver requests that the FCC consider interference issues and their impact on the public as it considers its framework for broadband regulation. Regardless of whether the FCC chooses to address Internet Solver's specific issue, the fact that the problem exists and cannot adequately be addressed in the current regulatory environment is evidence that supports the FCC's assertion of at least some limited authority over certain aspects of broadband services.

As noted above, the type of interference affecting Internet Solver's service is one of the most common sources of DSL signal degradation, so it is likely that Internet Solver is not the only DSL provider experiencing such problems. Indeed, Qwest's

development of a “workaround” to address the situation, while inadequate, demonstrates that other competitive providers are experiencing the same issues. Thus, the FCC’s assertion of at least some limited authority over certain aspects of broadband services and implementation of policies to handle disputes arising from broadband service interference would likely benefit many consumers and serve the public interest.

Also, while broadband subscribers benefit from the competition provided by the presence of multiple providers, it is difficult for smaller broadband providers to justify continued investment in broadband facilities whose value can be severely diminished through the actions of their competitors, without at least some regulatory protection and efficient, affordable options for dispute resolution. Inevitably, this will result in decreased competition in the marketplace for broadband service and will likely result in some under-served areas not receiving the broadband service that they otherwise would have.

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This issue is a serious matter that demonstrates a gap in the current federal and state regulatory regimes applicable to DSL and other broadband services. It clearly illustrates that competitors — and, more importantly, consumers — are negatively affected by a lack of effective regulations to protect them from these sorts of issues. Internet Solver's situation provides real-world support for the arguments that the Commission has been making for limited regulatory authority over the transmission component of DSL and other broadband services.

Respectfully submitted,

/s/

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